

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

LIBERTY MUTUAL INSURANCE COMPANY,)	CIVIL ACTION
)	NO. 96-10804-DPW
)	NO. 1:04-CV-10674-DPW
Plaintiff,)	(Old Southington Landfill)
)	NO. 1:04-CV-10680-DPW
v.)	(Solvents Recovery Service)
)	
THE BLACK & DECKER CORPORATION,)	
BLACK & DECKER, INC., BLACK & DECKER)	
(U.S.) INC., EMHART CORPORATION, and)	
EMHART INDUSTRIES, INC.,)	
)	
Defendants.)	
)	

AFFIDAVIT OF RICHARD L. BINDER

Richard L. Binder deposes and says:

1. I am a member of the bar of this Commonwealth and am an attorney with Willcox, Pirozzolo & McCarthy, Professional Corporation, counsel for The Black & Decker Corporation, et als., in this action.

2. Exhibit A to the Appendix to Black & Decker's Supplemental Memorandum in Support of its Motion for Partial Summary Judgment Regarding Solvents Recovery Service and Old Southington Landfill Sites, filed herewith ("Appendix"), is a copy of a Notice of Potential Liability dated April 22, 1993 regarding the SRSNE Superfund site.

3. Exhibit B to the Appendix is a copy of the complaint in United States v. Solvent Recovery Services of New England, et al., United States District Court for the District of Connecticut, C.A. No. H-79-704 (MW).

4. Exhibit C to the Appendix is a copy of a document entitled "Solvents Recovery Site History" (updated 9/17/93) from the claim file regarding SRSNE, produced in discovery by Liberty Mutual in this action.

5. Exhibit D to the Appendix is a copy of excerpts from the deposition of Albert Tatro, conducted in this action on October 14, 1997.

6. Exhibit E to the Appendix is a copy of a Notice of Potential Liability dated June 16, 1992 regarding the SRSNE Superfund site.

7. Exhibit F to the Appendix is a copy of a Purchase and Sale Agreement between Bailey Corporation and USM Corporation dated September 3, 1982.

8. Exhibit G to the Appendix is a copy of a letter dated July 22, 1992 from Paula Shoyer to Thomas Burack.

9. Exhibit H to the Appendix is a copy of a letter dated March 11, 1993 from Daniel Coolidge to Legal Department, Emhart Corporation.

10. Exhibit I to the Appendix is a copy of a letter dated March 31, 1993 from Barry Malter to Daniel Coolidge.

11. Exhibit J to the Appendix is a copy of a letter dated March 3, 1993 from Leonard Heilman to Marilyn Goldberg.

12. Exhibit K to the Appendix is a copy of a letter dated March 31, 1993 from Barry Malter to Marilyn Goldberg.

13. Exhibit L to the Appendix is a copy of excerpts from the deposition of Louis Fiondella, conducted in this action on October 14, 1997.

14. Exhibit M to the Appendix is a copy of a Notice of Potential Liability dated January 31, 1994 regarding the Old Southington Landfill Superfund site.

15. Exhibit N to the Appendix is a copy of a letter dated April 1, 1993 from Barry Malter to Thomas Kane.

16. Exhibit O to the Appendix is a copy of a letter dated March 28, 1995 from Kim Olson to Michael Margiotta.

17. Exhibit P to the Appendix is a copy of a letter dated March 25, 1994 from Michael Margiotta to Interested Underwriters.

18. Exhibit Q to the Appendix is a copy of a letter dated August 4, 1994 from Michael Margiotta to Interested Underwriters.

19. Exhibit R to the Appendix is a copy of a letter dated May 3, 1994 from Michael Margiotta to Interested Underwriters.

20. Exhibit S to the Appendix is a copy of a letter dated September 7, 1994 from Kim Olson to Michael Margiotta.

21. Exhibit T to the Appendix is a copy of a letter dated September 20, 1994 from Michael Margiotta to Kim Olson.

22. Exhibit U to the Appendix is a copy of a letter dated December 13, 1994 from Michael Margiotta to Kim Olson.

23. Exhibit V to the Appendix is a copy of a letter dated December 28, 1994 from Kim Olson to Michael Margiotta.

24. Exhibit W to the Appendix is a copy of a letter dated October 19, 1994 from Kim Olson to Michael Margiotta.

25. Exhibit X to the Appendix is a copy of a letter dated August 17, 1995 from Kim Olson to Michael Margiotta.

26. Exhibit Y to the Appendix is a copy of a letter dated December 13, 1994 from Michael Margiotta to Kim Olson.

27. Exhibit Z to the Appendix is a copy of a letter dated February 16, 1995 from Thomas Burack to Gretchen Muench.

28. Exhibit AA to the Appendix is a copy of a letter dated August 17, 1995 from Kim Olson to Michael Margiotta.

29. Exhibit BB to the Appendix is a copy of is a copy of a schedule entitled "SRSNE Defense and Indemnification Costs," listing invoices produced to Liberty Mutual in the course of this action.

30. Exhibit CC to the Appendix is a copy of a schedule entitled "Old Southington Landfill Defense and Indemnification Costs," listing invoices produced to Liberty Mutual in the course of this action.

31. Exhibit DD is a copy of Liberty Mutual Loss Prevention Data Sheet Number 82, entitled "Reducing Liability from the Disposal of Hazardous Waste."

32. Exhibit EE to the Appendix is a copy of a document entitled "Case Handling Guide, Claims Department."

33. Exhibit FF to the Appendix contains copies of excerpts from the trial testimony of Franklin Woodard in this action.

34. Exhibit GG to the Appendix contains copies of excerpts from the trial testimony of Michael Bonchonsky in this action.

35. Exhibit HH to the Appendix contains copies of excerpts from the Executive Summary of "Contamination of Ground Water by Toxic Organic Chemicals."

36. Exhibit II to the Appendix is a copy of a document entitled “Excerpts from the National Research Council (1994).”

37. Exhibit JJ to the Appendix is a copy of the Supplemental Expert Report of Michael Bonchonsky, dated September 29, 2004, in this action.

38. Exhibit KK to the Appendix contains copies of pages from a 1966 insurance policy issued by Liberty Mutual Insurance Company to United Shoe Machinery Corporation.

39. Exhibit LL to the Appendix is a copy of the Expert Report of Jerome C. Muys, Jr., dated September 16, 2003, in this action.

40. Exhibit MM to the Appendix is a true and correct copy of a January 20, 2004 Stipulation, filed in this action.

41. Exhibit NN to the Appendix is a copy of a Liberty Mutual memorandum November 4, 1986 entitled “Hazardous Waste Dump Site Claims Brought by Governmental Agencies.”

42. Exhibit OO to the Appendix contains copies of excerpts from the Liberty Mutual site file concerning SRSNE, produced in discovery by Liberty Mutual in this action.

43. Documents contained in the Appendix do not always contain the enclosures referred to in the document.

44. Documents containing production numbers with the prefix “LM” were produced in discovery in this action by Liberty Mutual, and documents containing production numbers with the prefix “BD,” “SB” or “SBSF” were produced in discovery in this action by Black & Decker.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 20, 2004.

/s/Richard L. Binder
Richard L. Binder